

WILE SASC
LEG

OCA 87-1860
5 May 1987

MEMORANDUM FOR: C/PB/PPG/OS
C/ALD/OGC
C/POL/OS

FROM:

Legislation Division, OCA

SUBJECT: Defeat of Bingaman Polygraph Amendment
by Senate Armed Services Committee

1. On April 30, 1987, the Senate Armed Services Committee defeated an amendment to the Fiscal Year 1988-89 Department of Defense Authorization bill, S. 864, which was offered by Senator Bingaman on the subject of polygraph use by the Department of Defense (DoD). Copies of the amendment are not available. We understand, however, that the amendment would have directed the National Academy of Sciences to study the polygraph and/or DoD use thereof and required DoD and the Agency to cooperate in the study.

2. Although Senator Bingaman could offer the amendment during Senate floor consideration of the bill, this is not likely, given the negative vote in the committee.

3. With this action, we understand that there is no provision currently in either S. 864 or H.R. 1748, the House version of the DoD authorization bill, with respect to DoD use of the polygraph. Theoretically, this means that DoD could implement an unconditional polygraph program. In practice, however, DoD is not likely to do this. Instead, however, we understand that Representative Young is considering offering an amendment during House floor consideration of H.R. 1748, which would insert in the bill the favorable language concerning DoD polygraph use similar to that contained in his amendment on this subject of June 26, 1985 (p. H 5027 from Congressional Record of that date - attached).

4. We will keep you informed of developments in this area.

Attachment

cc:

Distribution:

Orig. - Addressees (w/att)

STAT 1 -
1 -
① - OCA Record
1 - OCA/LEG Subj File: Polygraph
1 - OCARead
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STAT OCA/LEG :dpt (5 May 87)

June 26, 1985

CONGRESSIONAL RECORD — HOUSE

H 5027

students who currently attend school in Highland Falls.

This amendment has the support of many of my colleagues, including my good friend Mr. GILMAN, who for many years represented Highland Falls. Mr. STRATTON, the distinguished dean of the New York congressional delegation; the chairman and ranking minority member of the Labor, HHS, Education Appropriations Subcommittee, Mr. NATCHER and Mr. CONTE; and the chairman and ranking minority member of the Defense Appropriations Subcommittee, Mr. ADDABO and Mr. McDADE. I very much appreciate the assistance of Mr. HILLIS, a member of the West Point Board of Visitors, and the ranking minority member of the Armed Services Subcommittee on Military Personnel and Compensation, Mr. DICKINSON, the ranking minority member of the Armed Services Committee; and particularly the chairman of the Armed Services Committee, Mr. ASPIN, in offering this amendment on my behalf. ●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Wisconsin [Mr. ASPIN].

The amendments was agreed to.

AMENDMENT OFFERED BY MR. DICKINSON

Mr. DICKINSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DICKINSON: On page 200, after line 4, insert the following new section:

SEC 100A LIMITED COUNTERINTELLIGENCE POLYGRAPH PROGRAM.

(a) The Secretary of Defense is authorized and directed to institute a program of counterintelligence polygraph examinations for military, civilian and contractor personnel of the Department of Defense, military departments, and the armed forces whose duties involve access to classified information.

(b) The program instituted pursuant to subsection (a) shall provide that, in the case of such individuals whose duties involve access to classified information within special access programs established pursuant to section 4.2(a) of Executive Order 12356, a counterintelligence polygraph examination shall be required prior to granting access to such information and aperiodically thereafter at random while such individuals have access to such information.

(c) In the case of individuals whose duties involve access to classified information other than that information covered in subsection (b) of this section, a counterintelligence polygraph examination may be required prior to granting access to such information and aperiodically thereafter at random while such individuals have access to such information.

(d) A counterintelligence polygraph examination conducted pursuant to this section shall be limited to technical questions necessary to the polygraph technique and questions directed related to espionage, sabotage, terrorism and unauthorized disclosures of classified information.

(e) The authority of the Secretary of Defense under this section to provide for the use of polygraph examinations shall be in addition to any other authority the Secretary possesses on the date of enactment of this act to provide for such examinations under applicable laws and regulations.

Mr. DICKINSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. DICKINSON. Mr. Chairman, at this point let me say that the gentleman in the well, the gentleman from Florida [Mr. YOUNG] is the originator of the amendment, but I offered it because I support it very much.

Due to the Walker spy ring and any number of things that have impacted the security and the secrecy and our ability to protect the secrets of this country, I think it is a very good amendment. The gentleman from Florida is more knowledgeable since he is the author of the amendment, and I would like to yield to him at this time.

Mr. YOUNG of Florida. I thank the gentleman for offering the amendment in my behalf and yielding the time to me.

As the gentleman said, this effort is directed at spy rings like we have just seen with John Walker and his naval espionage ring that operated for so long and compromised our antisubmarine warfare capability, we are not even sure how seriously yet.

In a very dramatic action, Mr. Chairman, the House has just overwhelmingly given our Government substantial tools in the battle against drug abuse and the importation of those illegal drugs. This amendment would give a similar set of tools to those people to whom we have given our national security responsibility. In hearing after hearing, those people charged with that responsibility have testified that one of the very best tools that they could have is the ability to randomly polygraph those persons who have national security clearances.

Mr. Chairman, the Army, this month, said that there were 481 incidents last year in which members of the Army were approached by KGB officers to become spies for the Soviet Union. The Central Intelligence Agency today polygraphs people who work for them as a condition of employment.

In a letter to us from the CIA, John McMahon, the Deputy Director, tells us that it is a very, very effective tool. At NSA, handling some of the most delicate and sensitive communications and transmissions, they have polygraph authority as a condition of employment.

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Mr. Chairman, I repeat, those people in the military who are working for defense contractors, who have the same access to information that the CIA has or NSA has, are not subject to that same polygraph examination.

The Director of the Office of Naval Intelligence testified, after the Walker

case became public, that the very best tool that he could have in counterintelligence activity is a random polygraph.

Christopher Boyce, an ex-employee of TRW, convicted of selling secrets to the Soviet Union, in testimony before the other body about taking polygraphs said:

If I had known this, I would never have considered an act of espionage.

I have a statement from Stanislav Levchenko. Stan was a KGB major. He defected to the United States. Stan Levchenko authorized me to make this statement in his behalf:

In my point of view, the use of polygraphs by the United States Government as a part of its security screening of government employees constitutes a serious obstacle for the Soviets in their penetration of U.S. Government agencies.

Mr. Chairman, there have been hearings and meetings on this subject prior to the revelation of the Walker case, and since the revelation of the Walker case, and those individuals who have the responsibility for our counterintelligence activities tell us repeatedly that the polygraph program is one of the best tools that they can possibly have.

Now, Mr. Chairman, I mentioned the letters from the CIA and I mentioned the letters from NSA. There is also a letter from the Secretary of the Navy endorsing this concept, but I want to tell you something else. In private industry in the United States, this type of polygraph is used extensively. I have a letter here from a gentleman who is in charge of security for Days Inn, a motel chain.

Now, Mr. Chairman, he says that their loss from employees exceeded more than \$1 million a year, but was reduced in the first year they employed the polygraph, to only about \$100,000, testifying to the effectiveness of the polygraph.

I say again, as Christopher Boyce said, had he known that a polygraph program would be in place, a counterintelligence polygraph, he would never have considered an act of espionage.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama [Mr. DICKINSON] has expired.

(By unanimous consent, Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

Mr. DICKINSON. Mr. Chairman, let me say before I yield to the gentleman, it is inconceivable to me and to most people outside of Government that the CIA that handles top secret and the most sensitive material, they may require a polygraph. The FBI may require a polygraph test. Our other sensitive intelligence-gathering agencies may require a polygraph test, but our military, and we have just seen what has happened with the Walker spy group, the Army, the Navy, the Air Force, under today's laws, they cannot require this polygraph test.